RECEIVED
JUL 21 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY RV DEPUTY

In The United States District Court

For The Northern District Of California

Division

2254 1983
FILING FEE PAID
Yes No
IFP MOTION FILED
Yes No
COPIES SENT TO
Court ProSe

Demario D. Walker Plaintiff

VS.

Civil Action No:

'08 CV 1314 JAH LSP

United States Of America
Attorney General of
Governor of

Defendant(s)

42 USC § 1983 Complaint

Comes now Demario D. Walker # L1625 pro'se and file this his 1983 Complaint and States:

Preliminary Statement:

This is a Civil rights action filed by Demario Walker, A homosexual, for injunctive relief under 42 USC § 1983 alleging that the States ban on same Sex marriages deny due process and equal protection Of the law, under the 14th Amendment to the U.S. Constitution

Jurisdiction:

1. The Court has Jurisdiction over the plaintiff's Claims Of violation Of federal Constitutional rights under 42 USC §§ 1331(a) and 1343

2. The court has Supplemental Jurisdiction Over the plaintiff's State law tort Claims under 28 USC § 1367

Parties

3. The plantiff is Demario Walker, incarserated in the South Mississippi Correctional Institution.

4. The Defendant Attorney General is the Cheif law enforcement Offical Of the State

5. The Governor is the Executive officer Of the State

6. The United States Of America

Facts:

7. While in the State, I Demario Walker, applied for a Certificate of marriage.

8. I was denied because I was a biological male and my partner was a biological male.

9. See the attached affidavit. and (Statue unconstitutional)

Claims for relief:

10. The actions described above in 7, 8, and 9 violated the Due process Clause of the 14th amendment to the U.S. Constitution as well as the equal protection Clause

Relief requested:

11. Injunction Relief - allowing same sex marriage.

12. Declatery Relief - that the acts described above is unconstitutional

Respectfully submitted

Sworn to on the 1 day of July 2008

X

X [signature]

California - Southern
united States Courthouse
940 Front St. suite 1178
San Diego CA. 92101-8900

STATE OF MISSISSIPPI

COUNTY OF Greene

AFFIDAVIT

PERSONALLY appeared before me the undersigned authority in and for the aforesaid jurisdiction, Demario Walker, who being duly sworn by me does depose and state the following:

I, Demario Walker # L1625, do hereby state that the following is true and correct to the best of my belief and knowledge.

10/25/07 while in San Diego California Demario D. Walker and marshall Branch two indiusuals who have Been in a long term relationship, Since 3/15/04 until present date.

While in California (San Diego) we (Marshall M. Branch and Demario D. walker) Decided that we would get Married, since, we were both Committed to and Loved each Other.

We were Denied a Certificate of marriage and this was because we both were biological Male.

We left San Diego and went to San Fransico to apply for another Certificate Of marriage.

We then went to our State of residence, Texas

7/1/08

D. Walker

Signed, this the 2 day of July, 2008

Demario D Walker

Signature

STATE OF MISSISSIPPI
NOTARY PUBLIC
ID # 87335
LAURA TILLEY
Commission Expires
Oct. 10, 2011
GREENE COUNTY

SWORN AND SUBSCRIBED before me, this the 2nd day of July, 2008.

Laura Tilley

Notary Public

My commission expires:

CERTIFICATE OF SERVICE

This is to certify that I, the undersigned, have this day and date mailed, via United States Mail, postage pre-paid, a true and correct copy of the foregoing and attached instruments to the following: 1983 complaint (2 pages)

USDC,

This the 01 day of July, 2008

Damario Walker
PETITIONER
MDOC# L1625
SMCI/2 - P.O. Box 1419
Address
Leakeville MS, 39451-1419
Address

****

CERTIFICATE OF SERVICES

****

I DEMARIO WALKER, has caused to be mailed, a true and correct copy of: 1983 Complaint w/ IFP Application.
a copy being mailed to there last known mailing address, and said instrument bein mailed by:

_____ Handmail

_____ Certified Mail

✓ Regular Mail By ILAP

to the following indivisuals:

United States district Court
United States Courthouse
940 Front St. Suite 1170
San Diego CA, 92101-8900

Attorney General for State of ____________

____

____

____

so CERTIFIED this the 1 Day of July, 20 08

Demario Walker L1625

Demario Walker #L 1625

CASE NUMBER Unassigned

; 44
ev. 3/99)

CIVIL COVER SHEET

ie JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

(a) PLAINTIFFS

Demario Walker

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Greene
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Pro'se

DEFENDANTS

USA
Governer
Attorney General

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

ATTORNEYS (IF KNOWN)

BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

1 U.S. Government Plaintiff
☐ 3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant
X 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	X 1	Incorporated or Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	X 2	☐ 2	Incorporated and Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT
- 110 Insurance
- 120 Marine
- 130 Miller Act
- 140 Negotiable Instrument
- 150 Recovery of Overpayment & Enforcement of Judgment
- 151 Medicare Act
- 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- 153 Recovery of Overpayment of Veteran's Benefits
- 160 Stockholders' Suits
- 190 Other Contract
- 195 Contract Product Liability

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury — Med. Malpractice
- ☐ 365 Personal Injury — Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes
- ☐ 890 Other Statutory Actions

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt. Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS — Third Party 26 USC 7609

REAL PROPERTY
- 210 Land Condemnation
- 220 Foreclosure
- 230 Rent Lease & Ejectment
- 240 Torts to Land
- 245 Tort Product Liability
- 290 All Other Real Property

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence
- HABEAS CORPUS:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- X 550 Civil Rights
- ☐ 555 Prison Condition

ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

X 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

1983

I. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: X YES ☐ NO

II. RELATED CASE(S) (See instructions): IF ANY
JUDGE ______ DOCKET NUMBER ______

TE

SIGNATURE OF ATTORNEY OF RECORD

[signature]

JS44

(Rev. 07/89)

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2254 1983

FILING FEE PAID Yes No ✓

IFP MOTION FILED Yes ✓ No

COPIES SENT TO Court ✓ Pro Se

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JUL 21 2008

CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA BY DEPUTY

I (a) PLAINTIFFS

Demario D. Walker

DEFENDANTS

USA

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

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(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Demario D. Walker
PO Box 1419
Leakesville, MS 39451
L-1625

ATTORNEYS (IF KNOWN)

'08 CV 1314 JAH LSP

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

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Citizen or Subject of a Foreign Country	☐3	☐3	Foreign Nation	☐6	☐6

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42 U.S.C. 1983

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
	PERSONAL INJURY	PERSONAL INJURY			
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VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE Docket Number

DATE 7/21/2008 ~~SIGNATURE OF ATTORNEY OF RECORD~~

[signature]